

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF ILLINOIS**

This Document Relates to:

**DiCostanzo v. Bayer HealthCare Pharms., Inc., et al. No. 3:10-cv-10578-DRH-
PMF**

**Greenwood v. Bayer HealthCare Pharms., Inc., et al. No. 3:10-cv-10262-DRH-
PMF**

Reed v. Bayer HealthCare Pharms., Inc., et al. No. 3:10-cv-10462-DRH-PMF

ORDER

HERNDON, Chief Judge:

This matter is before the Court on Defendant Bayer HealthCare Pharmaceuticals Inc. (“Bayer”) motion to dismiss Plaintiffs’ claims without prejudice (*Greenwood* 3:10-cv-10262 Doc. 16; *Reed* 3:10-cv-10462 Doc. 14; *Dicostanzo* 3:10-cv-10578 Doc. 19), filed on December 28, 2010. Plaintiffs have not responded to Bayer’s motion.

On November 10, 2010, Bayer filed a motion to dismiss without prejudice based on Plaintiffs' failure to file an entry of appearance.¹ Plaintiffs did

¹ In each of the above cases the Court granted motions to withdraw filed by Plaintiffs' counsel. Each Order stated: "Should Plaintiff choose to continue pursuing her action she is hereby given

not respond. On December 16, 2010, the Court ordered Plaintiffs to file a supplementary appearance by December 23, 2010 (*Greenwood* 3:10-cv-10262 Doc. 15; *Reed* 3:10-cv-10462 Doc. 13; *Dicostanzo* 3:10-cv-10578 Doc. 18). The Order provided: “If Plaintiffs fail to file an entry of appearance by this deadline, Plaintiffs’ cases will be dismissed without prejudice pursuant to **Rule 41(b)**.¹” (*Id.* at 3-4).

To date, and in violation of the Order and **Local Rule 83.1(g)(2)**, Plaintiffs have not filed a supplementary appearance. This is particularly problematic in light of the Plaintiff Fact Sheet concerns discussed in this Court’s December 16, 2010 Order.

Pursuant to Federal Rule of Civil Procedure 41(b), a complaint may be involuntarily dismissed where a Plaintiff fails to prosecute or to comply with the rules or a court order. **See Fed. R. Civ. P. 41(b)**. In the above captioned cases, Plaintiffs have failed to comply with this Court’s Order and with **Local Rule 83.1(g)**. Accordingly, for the reasons stated herein, the above captioned actions are hereby dismissed without prejudice. **SO ORDERED**


David R. Herndon
2011.01.21
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Chief Judge
United States District Court

Date: January 21, 2011

¹21 days to either file an appearance on her own behalf or have new counsel appear for her, as required by Local Rule 83.1(g)(2), and 45 days from the entry of her or her new counsel’s appearance to file her Plaintiff Fact Sheet, pursuant to Case Management Order #12.”

